

**IN THE UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

**In re: LION AIR FLIGHT JT 610
CRASH**

Lead Case: 1:18-CV-07686

Honorable Thomas M. Durkin

This filing applies to: 19-CV-797

**MOTION TO REMOVE VINI WULANDARI AS CO-ADMINISTRATOR AND TO
CONFIRM FAHRIDA KURNIAWATI'S TERMINATION OF GARDINER KOCH
WEISBERG & WRONA AS HER ATTORNEYS**

Fahrida Kurniawati, as special administrator of the Estate of Harvino, deceased, through her attorneys Lessmeister & Samad PLLC, move this Honorable Court pursuant to 735 ILCS 5/2-1008 to remove Vini Wulandari as Co-Administrator and to confirm her termination of Gardiner Koch Weisberg & Wrona as her attorneys, respectfully states as follows:

COUNSEL FULFILLED THEIR OBLIGATIONS

TO FAHRIDA KURNIAWATI AND HER INTERESTS

1. The new mediation date, by agreement of Boeing and Fahrida Kurniawati's Attorneys has been set for January 6, 2020. On November 21, 2019 at the next status date this information was going to be reported to the Court by agreement of Boeing and Ms. Kurniawati's counsel.

2. Fahrida Kurniawati traveled from Indonesia and was present at the Mediation on November 14, 2019. Vini Wulandari was not. There is no breach of

any fiduciary duty. Indeed, Lessmeister & Samad, PLLC, had a fiduciary obligation to carry out the desires of Ms. Kurniawati. Ms. Kurniawati no longer desired Mr. Gardiner as her counsel and had no desire to be in the same room with him. Ms. Kurniawati has the right to the counsel of her choice.

3. To allow Mr. Gardiner to participate in the negotiations would allow Mr. Gardiner to remain as *de facto* counsel for Ms. Kurniawati by negotiating on her behalf.

4. We made all efforts to resolve this issue regarding Mr. Gardiner prior to the mediation but the Honorable Judge Flannery held he had no jurisdiction over the case any longer. **Exhibit 1**, Tr. 19-20.

5. Counsel for Vini Wulandari admitted that Ms. Kurniawati no longer wanted her sister-in-law, Vini, involved:

THE COURT: And now they're having a difference –

MR. GARDINER: But their differences, I don't believe –

THE COURT: That was a question.

MR. GARDINER: I'm sorry. Go ahead.

THE COURT: But now they're having a difference of opinion; is that correct?

MR. GARDINER: They're having, I would say, maybe personal differences, but no differences relating to the best interest of the children.

THE COURT: Well, they both want to make a recovery?

MR. GARDINER: Yes.

THE COURT: I agree with that.

MR. GARDINER: Yes.

THE COURT: But the wife does not agree that she wants to -- the sister involved anymore, correct?

MR. GARDINER: She does not want the sister involved.

Exhibit 1, Tr. 16, ln. 3-24.

6. Vini Wulandari's motion filed on November 14, 2019 is proof of that she no longer is needed in this matter. Ms. Kurniawati no longer wants her as Co-Administrator. With Ms. Kurniawati having sole custody of her children she is in the best and only position to look out for herself and the best interests of her children.¹

MS. KURNIAWATI IS THE CUSTODIAN OF HER CHILDREN AND ONLY THE FOUR OF INHERIT UNDER ISLAMIC AND INDONESION LAW. TO ALLOW WULANDARI TO REMAIN WOULD CIRCUMVENT THE INDONESIAN COURT DECREES.

7. As we stated on Halloween before this Honorable Court, we repeat: Fahrida Kurniawati is the surviving spouse of the decedent Harvino, Harvino's next of Kin, and an heir to the Estate of Harvino under Islamic Law and Indonesian law. **Exhibit 2**, Tr. 3. Only Ms. Kurniawati and her children inherit under both Islamic law and Indonesian law. This is admitted by Vini Wulandari and her counsel. This is confirmed by the Indonesian decree. **Exhibit 3**, attached hereto and incorporated herein.

¹ We take exception to Mr. Gardiner and his firm's version of what occurred at the confidential mediation.

8. Ms. Kurniawati is the sole custodian of her three children. The Indonesian Religious Court decree appointing Fahrida Kurniawati as Guardian over her children is attached hereto and incorporated herein as **Exhibit 4**.

9. Ms. Kurniawati is the legal guardian of her three (3) children, the heirs of Harvino deceased, identified as follows:

- a. Khansa Davina Zhafirah, daughter, born June 7, 2010;
- b. Rafa Yusuf Aqilah, son, born March 19, 2012;
- c. Kahlifi Ahza Zikri, son, born February 11, 2017.

Exhibit 4.

10. Vini Wulandari is only the decedent's sister. To allow Vini Wulandari to remain as Co-Administrator would override and void the Guardianship that was done and is in place.

11. Fahrida Kurniawati petitions this Honorable Court to terminate Vini Wulandari as co-administrator pursuant to 735 ILCS 5/2-1008. 735 ILCS 5/2-1008 provides that upon Motion "an order may be entered that the proper parties be substituted or added, and that the cause or proceeding be carried on with the remaining parties and new parties, with or without a change in the title of the cause."

12. Ms. Fahrida Kurniawati, has been appointed as an administrator over her Husband's estate and the guardian of her children, Harvino's heirs. It is needless to have two individuals collectively act as special administrator, where Fahrida Kurniawati can act as administrator in the best interests of

herself and her children. Vini Wulandari admits there is disharmony between her and Ms. Kurniawati. This is a fact.

13. Co-Administrator Wulandari's continued appointment is meddlesome.

14. Vini Wulandari takes nothing from the Estate of Harvino under Islamic Law. Under Islamic Law, any naturally born son, blocks and moots any right to inheritance from Harvino's paternal sister. Chapter 4, Section 11 of the Holy Quran, Surat-l-Nisaa (The Women), which translated from Arabic to English states:

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise.

Noble Quran, Sahih International Translation,
By Dr. Muhammad Taqi-ud-Din Al-Hilali
Islamic University, Al-Madinah Al-Munawwarah

15. Vini Wulandari takes nothing from the Estate of Harvino under Indonesian Law. Article 852-859 of the Indonesia Civil Code separates groups of heirs into four (4) groups: 1) Child or offspring and wife or husband; 2) Parents (father and mother) and sibling; 3) Grandfather and grandmother or other ancestors in a straight line upward; 4) Relatives of sideline until the sixth degree.

16. Article 852 of the Indonesia Civil Code provides that: Wife or husband, if they have child, has same share with child.

17. The second group, parents and siblings, is governed by Article 854 of the Indonesian Civil Code. It provides that the second group can inherit, if the first group (spouse and children) does not exist. Article 854.

18. Wulandari takes nothing, and has no interest in the Estate of Harvino. This is admitted to by Wulandari. **Document # 253**, Par. 13. Yet, Wulandari moves this Honorable Court to make her the only administrator of Harvino's estate and to remove Fahrida Kurniawati. **Document # 253**. Wulandari is asking this Honorable Court to grant her decision making over Fahrida Kurniawati and Kurniawati's children. Absent from Wulandari's Motion is any Islamic authority, Indonesian authority, or precedent which would allow Wulandari to have decision making authority over Kurniawati and Kurniawati's children; when Wulandari has no custodial rights over the children.

19. For Wulandari to suggest she is in a better position to make decisions for Fahrida Kurniawati and Ms. Kurniawati's children is contrary to the Quran, Indonesian law, and Illinois law.

20. Wulandari claims that Ms. Kurniawati's requesting of a new mediation for this Honorable Court to resolve the termination of Gardiner Koch Weisberg & Wrona and to adjudicate Wulandari's removal as administrator equates to a failure to participate in the mediation in good faith. This is contrary to what occurred on November 14, 2019 at the scheduled mediation.

21. Ms. Kurniawati's affidavit is attached hereto as **Exhibit 5**. Fahrida Kurniawati, a resident of Indonesia, traveled in excess of 22 hours to participate in person at the November 14, 2019 scheduled mediation. Ms. Kurniawati's

requested that she be placed in a room separate from the attorneys of Gardiner Koch Weisberg & Wrona. Ms. Kurniawati requested a new mediation date, for she was not comfortable with the attorneys of Gardiner Koch Weisberg & Wrona participating in the mediation on her behalf or her children's behalf. Boeing had no objection to the continuance of the mediation to January, where other mediations in this matter were going to be scheduled for that time.

22. Furthermore, potential ethical conflicts were raised by Gardiner Koch Weisberg & Wrona's continued participation in a global settlement for the benefit of Fahrida Kurniawati and Ms. Kurniawati's children, where Thomas G. Gardiner, John R. Wrona, and Shannon V. Condon of Gardiner Koch Weisberg & Wrona were discharged by Fahrida Kurniawati on October 18, 2019. **Exhibit 6.**

23. Rule 1.16(a)(3) of the Illinois Rules of Professional Conduct provides that a lawyer shall withdraw from representations where the lawyer is discharged. In writing, Ms. Kurniawati expressed to the attorneys of Gardiner Koch Weisberg & Wrona not to "proceed any further in my case." **Exhibit 6.** The law says, "A client may discharge her attorney at any time, with or without cause." *Albert Brooks Friedman, Ltd. v. Malevitis*, 304 Ill. App. 3d 979, 980 (1st Dist. 1999).

24. Mr. Gardiner admitted before this Honorable Court on October 31, 2019 that he and his firm were in fact terminated.

The Court: Did she terminate him?
Mr. Lessmeister: Yes.

Mr. Gardiner: She did send a letter to me terminating me, Judge.

Exhibit 2, P. 8, TR 15-17

25. Yet, Gardiner Koch Weisberg & Wrona continue to attempt to act as de-facto attorneys for Ms. Kurniawati under the facade of the co-administrator Wulandari. This is contrary to the desire of Fahrda Kurniawati, and her discharge of that firm.

26. Ms. Kurniawati retained Lessmeister & Samad PLLC's to represent her in this case. Attorneys Jimmy A. Samad and Bilal Akram of Lessmeister & Samad PLLC are Muslim. Ms. Kurniawati has expressed her comfort with Lessmeister & Samad, and her gratitude for Lessmeister & Samad keeping her informed about these proceedings and understanding of her religious practices. See **Exhibit 5**.

27. Ms. Kurniawati is entitled to the lawyers of her choosing and to be the Mother of her Children and to decide what is best for their family.

WHEREFORE, Fahrda Kurniawati, as special administrator of the Estate of Harvino, deceased, respectfully requests this Honorable Court grant her Motion to Substitute Counsel and order any such further relief that is just and proper.

Respectfully submitted,
s/James J. Lessmeister
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CERTIFICATE OF SERVICE

I hereby certify that the following counsel of record who are deemed to have consented to electronic service are being served with a copy of Fahrida Kurniawati's Motion to Remove Vini Wulandari as Co-Administrator and to Confirm her Termination of Gardiner Koch Weisberg & Wrona, to the person(s) listed below on, November 18, 2019 at the address listed below.

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